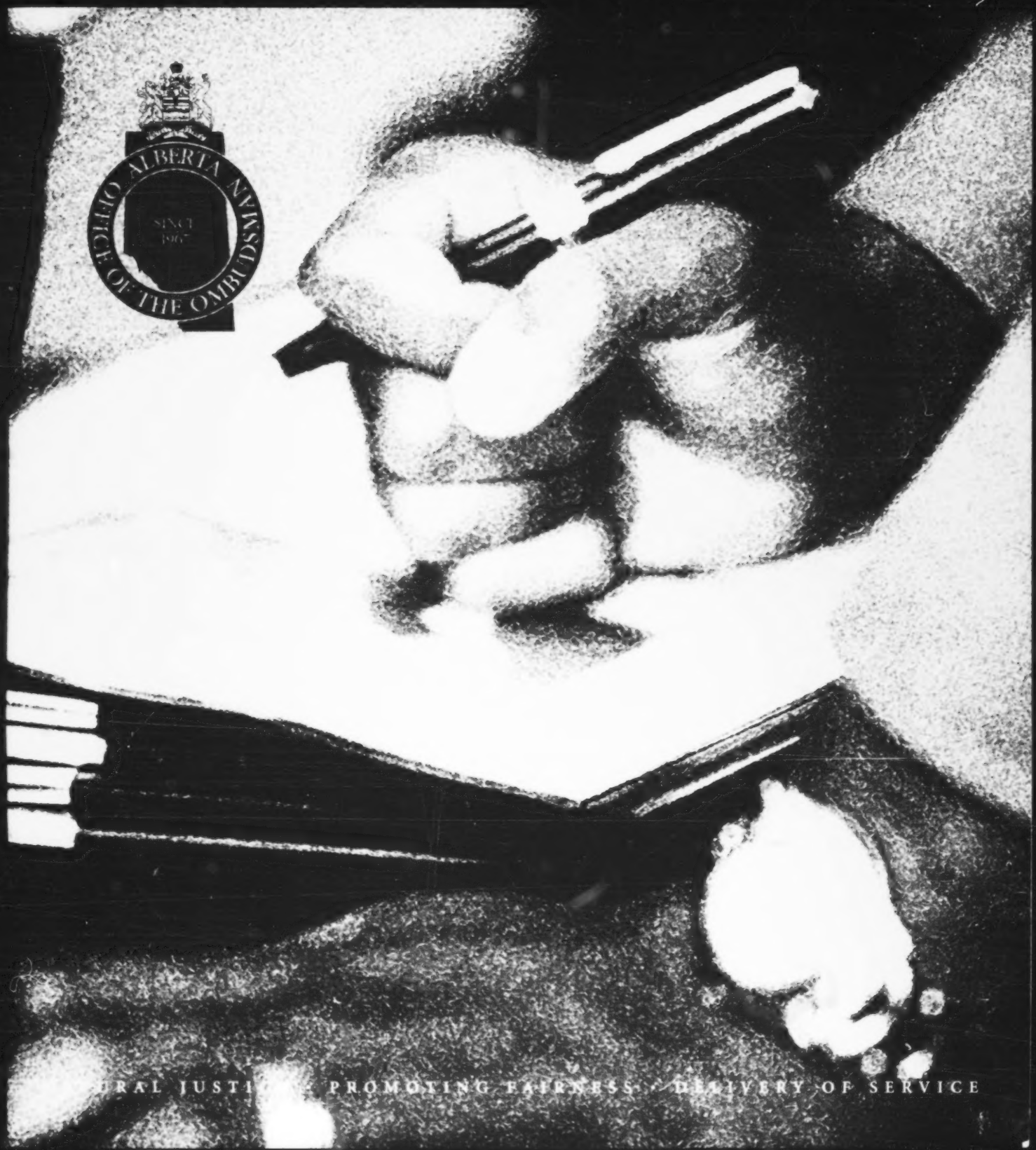
OFFICE OF THE

35TH ANNUAL REPORT

FOR THE PERIOD APRIL 1, 2001 TO MARCH 31, 2002



RAL JUSTI[illegible] PROMOTING FAIRNESS DELIVERY OF SERVICE

LEGISLATIVE ASSEMBLY
PROVINCE OF ALBERTA

Office of the Ombudsman

November, 2002

The Honourable Ken Kowalski
Speaker of the Legislative Assembly
325 Legislature Building
Edmonton, Alberta
T5K 2B6

Mr. Speaker:

The Office of the Ombudsman is pleased to present its 35th Annual Report to you and, through you, to the Legislative Assembly.

This Report has been prepared in accordance with section 28(1) of the *Ombudsman Act* and covers the activities of the Office of the Ombudsman for the period April 1, 2001 through March 31, 2002.

Respectfully,

G.G.S. (Scott) Sutton
Ombudsman

103-01908/

OFFICE OF THE OMBUDSMAN
PROVINCE OF ALBERTA

VISION:

The Office of the Ombudsman is the recognized standard of independent review for administrative fairness.

MISSION:

The Office of the Ombudsman promotes fairness in public administration within the Government of Alberta.

G.G.S. (Scott) Sutton, OMBUDSMAN

OFFICE OF THE OMBUDSMAN

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MESSAGE FROM THE OMBUDSMAN

Ministerial requests for investigations are always welcomed and it further portrays the independence of the Ombudsman by not only responding to citizen complaints, but to government concerns as well.

G.G.S. (SCOTT) SUTTON, *Ombudsman*

I am pleased to present my fourth Annual Report, the 35th Annual Report of the Alberta Ombudsman. The past year has been a good year for the Office of the Ombudsman and I have seen many of the concerns brought by Albertans resolved effectively in a cooperative spirit. It has also been a year that has brought significant change with our jurisdiction now extended to some professional bodies outside the government. With passage and change to the ***Regulated Accounting Profession Act,*** the ***Health Professions Act*** and the ***Regulated Forestry Profession Act***, it is apparent that there has become a willingness for an independent third-party reviewer to investigate not only the administrative decisions of government departments, agencies, boards and commissions (i.e. the Alberta government), but also to investigate the complaint processes of other entities where decisions impact on the rights of individuals. I am encouraged with the move to bring the Ombudsman within the accountability framework of professional bodies and I am pleased to accept these new responsibilities. From working with the professional bodies thus far, I am impressed with not only the acceptance and willingness to work with the Ombudsman, but more importantly with the thoroughness and fairness of the complaints resolution processes currently in place. A good understanding of administrative fairness and natural justice is evident. At the time of this publication, the Ombudsman's jurisdiction has been extended to the three accounting professions of Chartered Accountants, Certified General Accountants, Certified Management Accountants, two forestry professions (Profession of Registered Professional Foresters and Profession of Registered Professional Forest Technologist) and six of the 28 health professions including Dentists, Denturists and Hearing Aid Practitioners.

Although we have moved ahead with these professional bodies, I regret to say we have not fared as well with integrating the Ombudsman's responsibilities to the ***Health Information Act***. Problems exist in determining what access the Ombudsman will have to health information. Although I respect the spirit and intent of the ***Health Information Act***, if the Ombudsman is to be an effective investigative body within the dispute resolution process, full access must be provided so that we may conduct thorough and impartial investigations. Restricting access to information will only compromise the purpose and authority of the Office. To remain effective the Ombudsman must maintain the authority prescribed under the provisions of the ***Ombudsman Act*** and apply it equally no matter which entity we are investigating. This is a difficult situation but one that we expect to resolve as we continue to work with the Ministry of Health to find a solution.

The Alberta Maintenance Enforcement Program (MEP) is authorized by the ***Alberta Maintenance Enforcement Act*** to collect child and spousal maintenance granted by the courts. During this reporting period, a lengthy investigation was conducted into the disbursement of collected maintenance enforcement monies. Investigation by my Office determined there were occasions when collected maintenance enforcement payments were deposited to the Alberta government general revenue fund when in fact they should have been turned over to the intended recipients of maintenance enforcement agreements. Although unintended, it highlighted an ongoing concern of mine: the lack of communication when Alberta government programs overlap one another (in this case, the Maintenance Enforcement Program and the Supports for Independence Program). As a result of my findings, I sought the assistance of the Auditor General's Office to determine the extent and value of the misdirected funds. Although the investigation is yet to be completed, it has determined that since the ***Maintenance Enforcement Act*** was proclaimed in 1986, more than $1.4 million has been misdirected to public coffers.

I am pleased to report the response to my concerns and cooperation afforded my Office by the Ministry of Justice and Ministry of Human Resources and Employment during this investigation was good, and I am also pleased to report that all misdirected monies are being returned to the intended recipients. I appreciate the assistance provided by the Auditor General's Office as its involvement substantiated the true value of this accounting error. Corrective action to ensure collected maintenance enforcement monies are directed appropriately is in place and this should negate future concerns in this regard. The Maintenance Enforcement Program and the Supports for Independence Program also have in place plans for a computer interface which will assist in future interdepartmental communication.

An ongoing concern that continues to surface is that with some decision letters within the Alberta government, the author is not identified and the letter is not signed. It very well may be this streamlines or otherwise assists in everyday business; nevertheless, it is a fundamental principle of fairness to inform the person affected by a decision who the decision-maker was and to whom they can appeal or question if they feel the decision is unfair. Continuing efforts are being made to rectify this concern.

This year saw the Minister of Community Development request an Ombudsman's investigation into the administration of the ***Protection for Persons in Care Act***. Ministerial requests for investigations are always welcomed and it further portrays the independence of the Ombudsman by not only responding to citizen complaints but to Alberta government concerns as well. The investigation was undertaken as a result of a mutual concern about the administration of the ***Act***. Prior to completing the investigation, however, the Minister announced the establishment of a legislative review committee with broad reaching powers to review all aspects of the ***Act***. Such action negates further investigation by my Office at this time, and I am hopeful the inquiry will result in the fair administration of this important piece of legislation.

MESSAGE FROM THE OMBUDSMAN

Until the inquiry is complete, I will continue to accept complaints about the administration of the ***Act*** and conduct investigations consistent with the mandate of this Office.

Consistent with past years, the numbers of complaints coming to this Office are diminishing. As I said last year, I believe there is a twofold reason: the state of the economy and an aggressive outreach program by my Office to work with those entities that fall within the jurisdiction of the Ombudsman. We have worked hard to promote the concepts of administrative fairness and natural justice, and I am pleased to say that our efforts have been rewarded. It is apparent there is a genuine willingness by government to establish processes which are administratively fair and based on the concept of natural justice. Consistent with our outreach program is the development and implementation of a new internet web site. It is anticipated this web site will provide increased accessibility to the Office of the Ombudsman, as well as providing a resource for public inquiries. In addition to the outreach program, the provincial economy remains strong and this has affected the number of people who seek our services. This year, the jobless rate was at a twenty-year low with thousands of new employment opportunities. With a strong economy, it stands to reason that fewer people are seeking services from the Alberta government.

As always, it is my belief the Ombudsman's role is to assume a non-adversarial approach to dispute resolution. Indeed, the Ombudsman always strives for a solution to a problem rather than looking for guilt, although I do not hesitate to report any act of gross negligence or serious departure from accepted norms of conduct on the part of any decision-maker. It is by adopting such an approach that complaints can be dealt with promptly, resulting in greater satisfaction to the clients and to the investigated party. Letters of appreciation to my Office are inspiring, and one this year sums up the purpose and value of the Office of the Ombudsman. A client wrote ***"We appreciate also very much, that the Alberta Government has a 'department' where the 'little man' can appeal and get a fair investigation and help."*** Although we are not a "department" of the Alberta government, the essence of the message is clear.

Although we have been able to assist many with citizen complaints, there are those that we are unable to help. It is the role of the Ombudsman to protect rights, not to dispense favors. For a few, my lack of support is unacceptable and the question arises as to the availability of further remedy. The decision of the Ombudsman is final and not open to appeal. Expressions of dissatisfaction with my work can in fact only be treated as another complaint. I am therefore obliged to adopt an open attitude to complaints about my work and examine my actions critically in order to judge whether or not they are in compliance with the ***Ombudsman Act***, based on a thorough review of the facts. All complaints about my actions are taken very seriously and every attempt is made to resolve outstanding issues with clients.

During the past year, I was fortunate to receive a number of national and international guests, including my colleagues from Western Canada, as well as the Executive of the

International Ombudsman Institute. It is always a pleasure to have the opportunity to meet with my colleagues to discuss matters of concern and to work collectively to resolve issues.

As I enter the fifth year of my appointment, I am encouraged by the cooperation I have received, both from the private sector as well as the Alberta government. By taking a forthright common-sense approach to instances of administrative unfairness, resolve has been achieved and fairness assured. It is heartening to know that not only do Albertans have an opportunity to voice their concerns and bring forward their complaints of administrative unfairness to an independent investigative body, but that when those instances are identified, there is a willingness to right the wrong and treat people fairly.

I remain committed to the principals of fairness, natural justice, and the values for which the Office of the Ombudsman stands.

OMBUDSMAN
OFFICE OF THE
REVIEW OF OPERATIONS

Serving as an independent reviewer of public administration requires sound business practices and strict adherence to legislated mandates.

The Office of the Ombudsman continually strives for excellence in assessing and promoting fairness in public administration within the Government of Alberta. Serving as an independent reviewer of public administration requires sound business practices and strict adherence to legislated mandates. To ensure performance reflects the goals established within this prescribed framework, results and challenges need to be continually assessed and measured. While this is an evolving process, the following offers an evaluative snapshot for the period April 1, 2001 through March 31, 2002.

Goal 1: *Promote awareness of the Ombudsman's expanded jurisdiction as it relates to the health professions and the Regional Health Authorities.*

Under the ***Health Professions Act***, the Ombudsman has jurisdiction to investigate complaints against 28 health professional bodies. However, no action can be taken until each profession has a schedule proclaimed and to date, six of the 28 professions have proclaimed schedules in place. While complaints against the remaining 22 health professions currently remain outside the purview of the Office, their schedules will be proclaimed in due course.

To date, the proposed amendments to the ***Ombudsman Act*** have not been tabled in the Alberta legislature. The amendments will broaden the jurisdiction of the Ombudsman to encompass complaints against the Regional Health Authorities. Passage of this legislation has been delayed due to conflicting authority between the amendments to the ***Ombudsman Act*** and the existing ***Health Information Act***. Steps are being taken to resolve the outstanding issues and it is anticipated the amendments will proceed during the next sitting.

Given the current status of the amendments to the ***Ombudsman Act***, focus has remained on preparedness rather than implementation. All promotional and educational material has been prepared and is ready for distribution. A new web site has been established with a view to highlighting the expanded jurisdiction. All staff training and technical supports are in place. Surveys have been conducted and data gathered to ensure we reach our targeted audience. And, at every opportunity, citizens and government staff are kept informed of the progress of the expanded jurisdiction.

Goal 2: *Strengthen the quality of the administrative review process to better serve our clients and the Government of Alberta fairly and consistently.*

To provide the desired level of service to people seeking the Ombudsman's assistance, it is necessary to continually strengthen and improve the manner in which the Office fulfills its mandate. Inherent in this process is the need to constantly adjust and realign the operating procedures while at the same time maintaining a consistently high degree of investigative examination.

All investigations are measured against administrative fairness guidelines and quality assurance standards. These rigorous investigation checklists were reviewed and revised to ensure investigations meet the test for administrative fairness. During the past year, all investigations met the standards.

In addition to providing an investigative function, the Office also serves as a clearinghouse for directing callers to the correct complaint mechanism – be it inside or outside of government. Standards have been established to monitor the accuracy and timeliness of service provided to telephone clients. Random sampling has confirmed the information provided to telephone callers is compliant with the standards in 98 percent of the cases.

Goal 3: *Standardize corporate operational procedures and processes.*

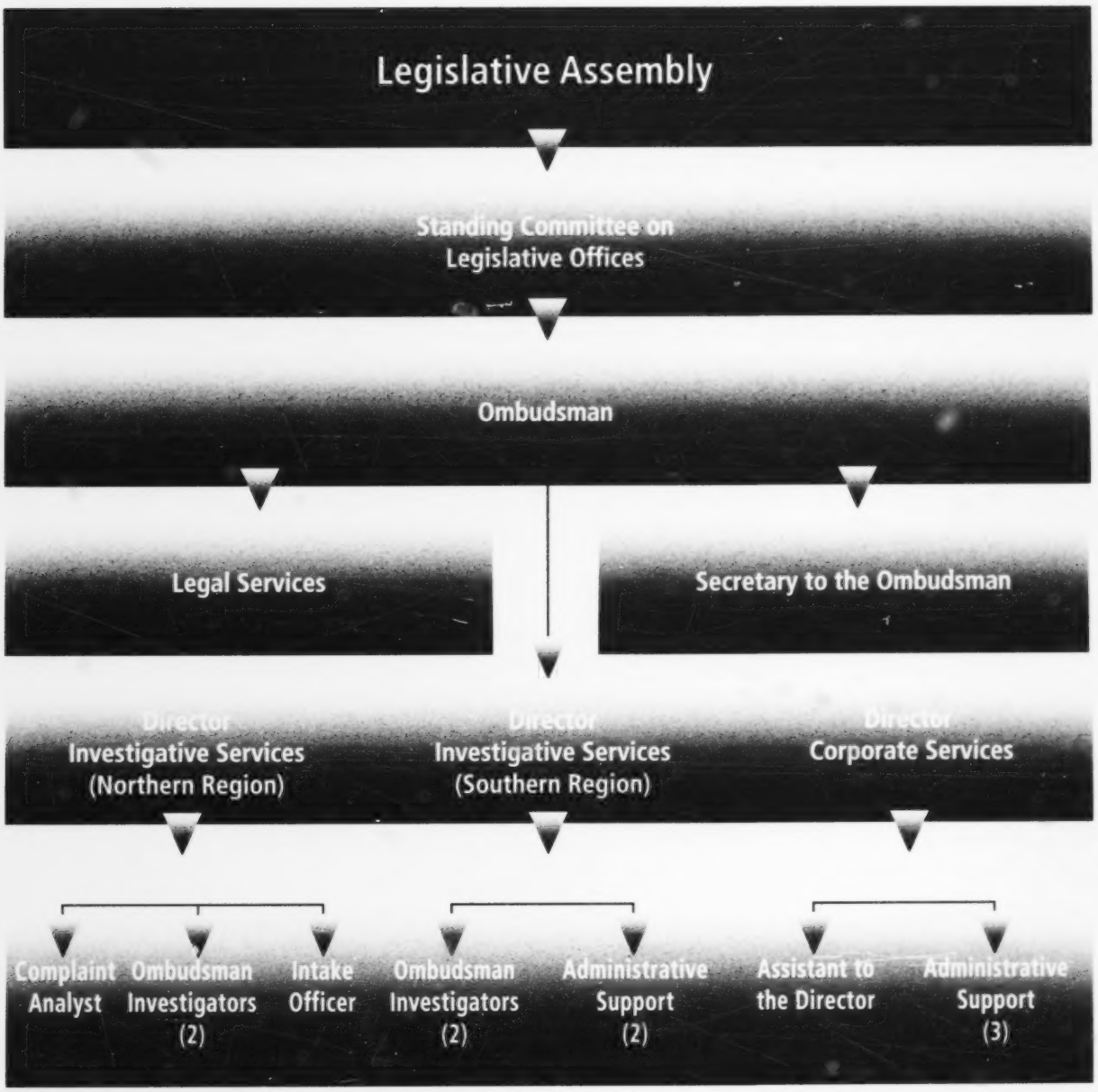
Streamlining organizational procedures is not only a practice in efficiency but serves to enhance and support the overall investigative process. All administrative practices were analyzed and reviewed to assess accuracy, viability, practicality and usefulness. Records were examined and reordered to provide accurate and timely identification, retrieval and storage of necessary documents. The resultant administrative policy and procedure manual provides a comprehensive and concise blueprint of consistent application. As well, a more inclusive life cycle management policy was adopted to foster greater resource deployment.

OFFICE OF THE OMBUDSMAN

OVERVIEW

The primary purpose of the Ombudsman is to provide impartial investigations on behalf of citizens who feel unjustly treated through the action of departments, boards and agencies of the government.

Corporate Structure



Investigative Services

The Ombudsman is an independent third-party reviewer. He conducts impartial investigations into complaints from individuals who believe they have been treated unfairly by: (1) the Alberta government, (2) colleges under the ***Health Professions Act***, (3) professions under the ***Regulated Accounting Profession Act*** or (4) professions under the ***Regulated Forestry Profession Act***.

The Ombudsman's authority to investigate complaints about health professions under the ***Health Professions Act*** is a recent addition to the jurisdiction. Twenty-eight health professions are involved including: the College of Chiropractors of Alberta, Alberta Dental Assistants Association, Alberta Pharmaceutical Association and College of Physicians and Surgeons. To date, six schedules have been proclaimed: Profession of Dentists, Denturists, Hearing Aid Practitioners, Medical Laboratory Technologists, Registered Dietitians and Registered Nutritionists, and Speech-Language Pathologists and Audiologists. Jurisdiction for the remaining 22 health professions will follow through proclamation of the individual schedules. Investigating a complaint against a health profession will be handled in a manner similar to those against a government department. For example:

All complaints must be in writing. Each letter of complaint is analyzed to determine:

- the nature of the complaint – does it fall within the Ombudsman's jurisdiction;
- which health profession is involved;
- have formal appeal processes been exhausted and
- has a person with a service complaint (conduct/behaviour) raised the complaint with anyone in the professional health body?

Complaints falling within the Ombudsman's jurisdiction are assigned to an investigator. A letter is sent to the client briefly explaining the issue(s) under investigation and the investigator's name.

The Ombudsman provides written notification to the Registrar of the College the complaint is against. The Ombudsman's letter includes a copy of the complaint letter and a request for the Registrar to provide the Ombudsman with written comments about the nature of the complaint.

After a written reply is received, the investigator contacts the College to arrange a meeting to review the file. The investigator may make copies of pertinent documents and interview staff associated with the complaint.

To ensure every investigation is conducted in a consistent and fair manner, an Administrative Fairness Checklist is utilized. The Supreme Court of Canada has ruled that any administrative decision affecting the rights, privileges or interests of an individual triggers a duty of fairness.

OFFICE OF THE OMBUDSMAN
OVERVIEW

Administrative fairness is assessed by:

(a) Isolating the issue(s) to investigate:

- What is the person complaining about?
- Do the actions and decisions complained about relate to a breach of duty of fairness?

(b) Tracing the chain of legislative authority:

- What is the legislative authority of the entity being investigated (i.e. the ***Health Professions Act***)?
- Under what authority (i.e. ***Health Professions Act***, regulation or policy created) was the decision made?
- Did the health profession have the authority to make the decision?
- Are the policy(ies) and documents generated by the health profession congruent with the requirements of the ***Health Professions Act***?

(c) Assessing the duty of fairness:

- Is there an appeal established within the statute?
- Is the decision "final" (there is no further person/body to appeal to in the health profession)?
- Has there been a substantial effect on the client's rights (i.e. loss of financial benefit or right to continue in a profession or employment)?

(d) Reviewing participant's rights:

- Was the client given:
  - a full and fair opportunity to present his/her case and
  - full disclosure of all the information before the decision-maker?

(e) Examining the provision for adequate reasons:

- Was the decision:
  - made within the statutory mandate of the health profession;
  - grounded in the evidence;
  - written so a reasonably informed person could understand it and
  - made by impartial and independent decision-makers?

Did the decision indicate how the decision-maker(s) considered and assessed the arguments and evidence?

(f) Assessing the reasonable apprehension of bias:

- Were decisions made by impartial and independent decision-makers?
  - "impartial" means a state of mind or attitude of the decision-maker in relation to the issues and the parties in a particular case;
  - "independent" extends beyond the state of mind or attitude of the decision-maker. This involves the status or relationship of the decision-maker to external sources. To be independent, the decision-maker must be free from interference by the executive of the health professional body and from other external forces (i.e. business, corporate interests, other pressure groups).

(g) Establishing the legitimate expectation of a person challenging a decision:

- What were the promises or regular practices of the decision-maker?
- Did the decision-maker carry through on the procedures and/or promises?

(h) Reviewing the approach to discretionary decision-making:

- Is the discretion established in legislation (i.e. ***Health Professions Act***, regulation, policy, guidelines)?
- Does the discretion change throughout the chain of legislative authority?
- Was the discretion exercised using a reasonable interpretation of the jurisdiction conferred by the statute?
- Did the decision-maker:
  - act under the dictation of another body;
  - refuse to make a decision;
  - disable itself from making a decision in each case because of a blanket policy that eliminates or reduces the discretion created in the statute and
  - take unauthorized action?

(i) Determining whether the decision was reasonable. This does not equate to whether the decision was wrong or whether it might have been decided in a different way:

- Did the decision-maker(s) consider and assess the arguments and evidence?
- Was the decision reasonable, made within the statutory mandate and grounded in the evidence presented?

The investigative findings are shared with the health profession prior to the final report to the Ombudsman. This provides the health profession an opportunity to take action if warranted. Once the Ombudsman has reviewed the report and made a final decision, both the client and the health profession are formally notified of the results. If applicable, recommendations may be submitted to the health profession.

Not all investigations result in recommendations as an investigation may reveal there is no support for the complaint. However, if a recommendation is made and the health profession fails to take corrective action, the Ombudsman has other avenues of resolution. These include contacting the appropriate minister or taking the matter to cabinet and the legislative assembly. However, such extreme measures are seldom necessary.

Information and Referral Services

The primary purpose of the Ombudsman is to provide impartial investigations on behalf of citizens who feel unjustly treated through the action of departments, boards and agencies of the government. Equally important is the role the Office plays as a complaint clearinghouse. The Office assists in directing people to the appropriate contact, department or other complaint mechanism if their complaint is outside the Ombudsman's jurisdiction to investigate.

OFFICE OF THE OMBUDSMAN
OVERVIEW

Legal Services

Legal services perform all necessary legal functions for the Office of the Ombudsman. This includes research, interpretation and legal opinion as it relates to both jurisdictional and investigative issues.

Corporate Services

Corporate services is comprised of seven functional areas - Business Planning, Financial Management, Human Resources, Information Technology, Communications, Corporate Support and Freedom of Information and Protection of Privacy.

Business Planning - provides strategic guidance to deliver the Ombudsman's program initiatives in an effective, timely and consistent manner. Sound business goals and practices are developed, analyzed and composed into a three-year business operating plan.

Financial Management - develops and implements financial systems, policies and procedures to ensure consistent, equitable and effective allocation of resources to support the operations of the Office. Directs the Office's fiscal planning, monitoring, reporting and budgetary functions within an accountability framework consistent with the *Financial Administration Act* and the *Government Accountability Act*.

Human Resources - administers all human resource functions for the Office including recruitment, classification, occupational health and safety, employee relations, pay and benefits management, fee-for-service contract administration, and employee development.

Information Technology - oversees and directs automated system design, development, operational support and maintenance of IT. Co-ordinates and oversees technical experts, contractors, key government technical infrastructure support and electronic data communications. Develops and recommends strategic direction for information technology initiatives to enhance program delivery. Oversees the resolution of all system and user problems.

Communications - co-ordinates the communication/information requirements of the Office including the development and production of the Annual Report, promotional/informational materials, media releases, and press briefings. Develops, reviews and upgrades the Office external web site.

Freedom of Information and Protection of Privacy - performs all duties associated with the role of the Freedom of Information and Protection of Privacy Coordinator. Serves as a consultant to ministries regarding the legal interpretation of the *Freedom of Information and Protection of Privacy Act* as it specifically pertains to the Office of the Ombudsman.

Corporate Support - provides leadership and direction to ensure the smooth, accurate and timely output of all documents in support of program delivery. Develops and implements administrative systems, processes and practices including data processing, records management, purchasing, property management, contract service management, telecommunications, inventory control and security.

FINANCIAL INFORMATION

Statement of Operations

For the Year Ended March 31, 2002

	2002 Budget	2002 Actual	2001 Actual
Expenses			
Salary, wages, and employee benefits	$ 1,400,000	$ 1,180,626	$ 1,151,215
Supplies and services	354,000	263,101	229,056
	$ 1,754,000	$ 1,443,727	$ 1,380,271
Valuation adjustments			
Provision for vacation pay		32,638	10,312
	$ 1,754,000	$ (1,476,365)	$ (1,390,583)

OMBUDSMAN
OFFICE OF THE

STATISTICAL ANALYSIS

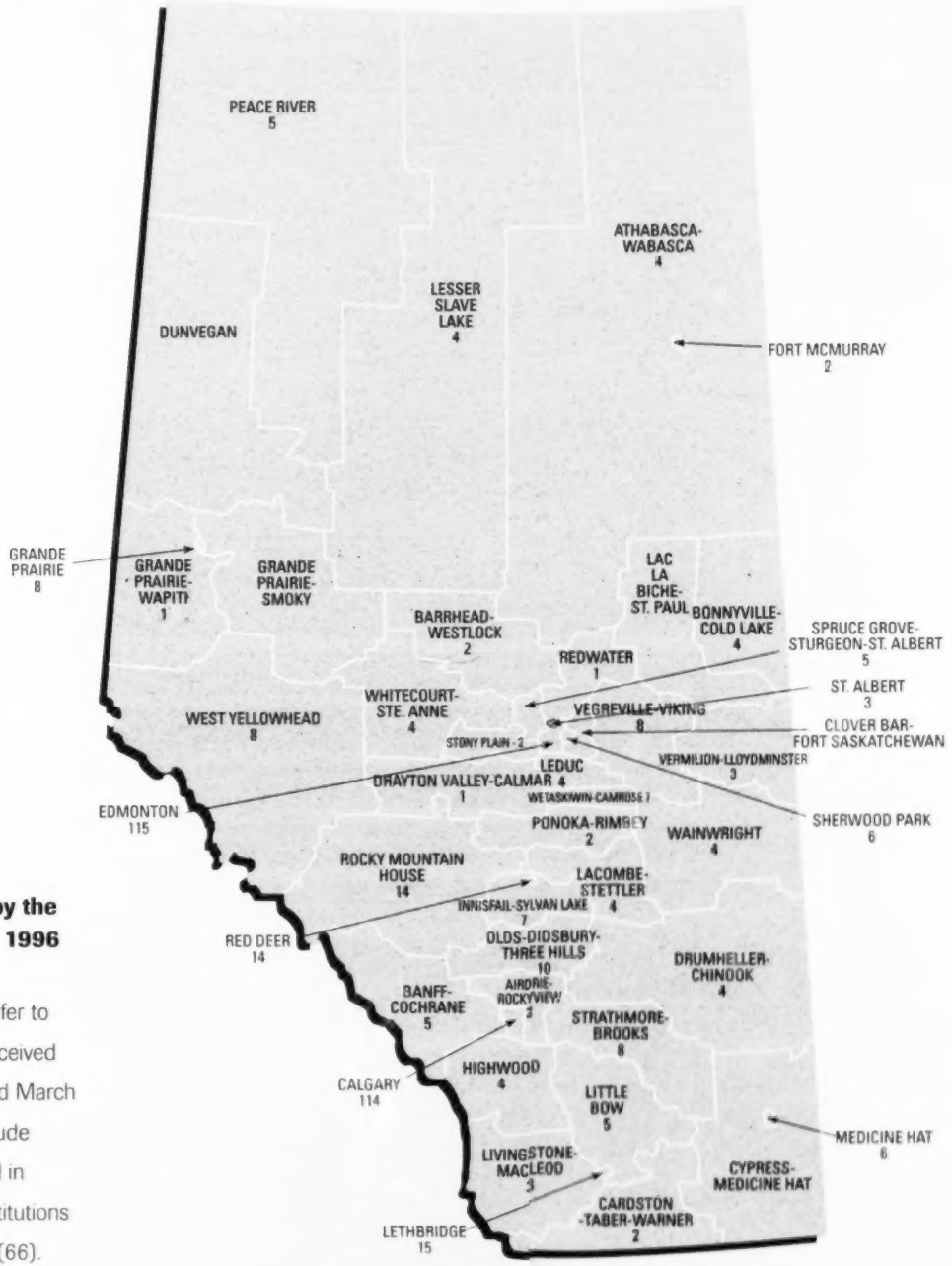
...statistics alone do not measure the work and worth of an Ombudsman's office.

Statistical Commentary

The number of written and oral complaints received by the Office continues to decrease. The decline has been evident for the past few years. However, statistics alone do not measure the work and worth of an Ombudsman's office.

The sheer size of government requires elaborate scales of management, complex systems to maintain departmental independence and an elaborate communications network to ensure interdepartmental teamwork and collaboration. Given the multifaceted nature of government, errors and misinterpretations are bound to occur. The problems associated with large public bodies demand the Ombudsman's office be one of understanding; assisting people who experience problems with the maze of red tape and the multitude of communication channels. Faced with the complex structure of government, an aggrieved citizen may not know where to turn or to whom to complain. The Ombudsman serves as a connecting link between individuals and the government. His duty is to not only actively promote justice but to balance the scales of justice. Justice, as defined by St. Thomas Aquinas is, *"...a constant and perpetual will to yield to each one his right."*

Table 1: *Geographic Location of Complaints*



Provincial Electoral Divisions as Defined by the *Electoral Division Act*, 1996

The figures on the map refer to 420 written complaints received between April 1, 2001 and March 31, 2002, and do not include complaints that originated in provincial correctional institutions (66) and out of province (66).

Table 2: *Annual Number of Complaints Received by Year*

YEAR	NUMBER OF WRITTEN COMPLAINTS	NUMBER OF ORAL COMPLAINTS	TOTAL NUMBER OF COMPLAINTS RECEIVED
1992	967	8,394	9,361
1993	1,030	9,319	10,349
1994	1,082	8,304	9,386
1995	1,021	7,986	9,007
1996	956	7,334	8,290
1997	748	5,771	6,519
1998	805	5,280	6,085
January 1, 1999 to March 31, 2000	983	6,314	7,297
2000/2001	650	6,665	7,315
2001/2002	552	4,693	5,245

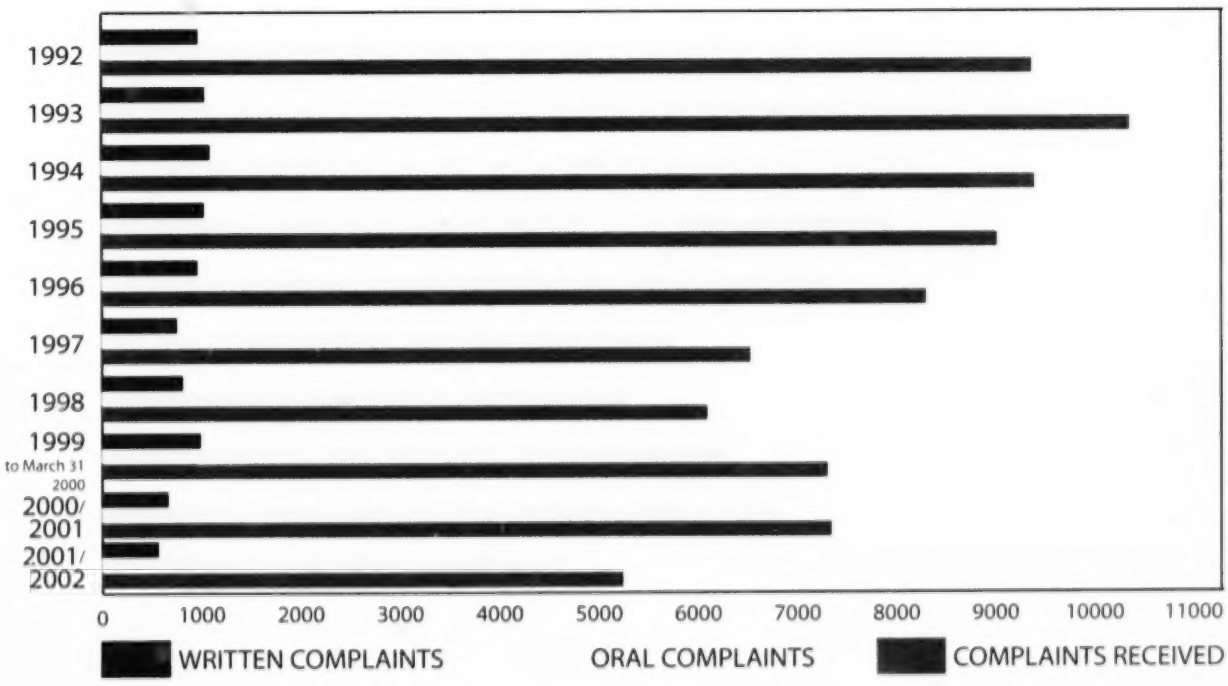


Table 3: *Oral Complaints Received*

Oral Complaints Received April 1, 2001 through March 31, 2002

Jurisdictional Oral Complaints	1,937
(Complaints about matters that fall within the Ombudsman's jurisdiction to investigate)	
Asked to Write the Ombudsman	472
Referred to Other Remedy or Appeal	1314
Information Requests	150
Informally Resolved	1
Non Jurisdictional Oral Complaints	2,756
(Complaints about matters that fall outside the Ombudsman's jurisdiction to investigate)	
Total Oral Complaints	**4,693**

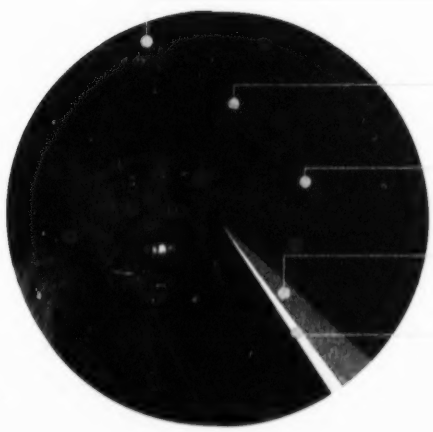

Non Jurisdictional (2756) 59%
Asked to Write the Ombudsman (472) 10%
Referred to Other Remedy or Appeal (1314) 28%
Information Requests (150) 3%
Informally Resolved (1) 0%

Table 4: *Written Complaints Received*

Written Complaints Received April 1, 2001 through March 31, 2002

Jurisdictional Written Complaints		459
Formal Investigation	266	
Referred to Other Remedy or Appeal	137	
Otherwise Resolved	3	
Declined on Discretionary Grounds	17	
No Authority to Investigate	23	
Information Requests	4	
Further Inquiries	7	
Pending	2	
Non Jurisdictional Written Complaints		93
Total Written Complaints		**552**

Formal Investigation (266) 48%

Referred to Other Remedy or Appeal (137) 24%

Otherwise Resolved (3) 1%

Declined on Descretionary Grounds (17) 3%

No Authority to Investigate (23) 4%

Information Requests (4) 1%

Further Inquiries (7) 1%

Non Jurisdictional (93) 17%

Pending (2) 1%

Of the jurisdictional written complaints received, 48 percent were assigned to an investigator for investigation, and 52 percent were not accepted for investigation. There are a several reasons why a written complaint may not be investigated:

Information Request – some written inquiries are seeking information or clarification about matters handled by the Ombudsman or by government rather than requesting an investigation.

Referred to Other Remedy or Appeal - a specific appeal of the decision or action may exist elsewhere. In each case, the nature of the appeal is explained to the client, in writing, when the investigation is declined. The client is also advised that if he or she remains dissatisfied as a result of the appeal, a letter of complaint should be sent to the Ombudsman who will decide, at that time, if an investigation is appropriate.

Other Resolution – a written complaint may be authorized for a formal investigation but prior to actually commencing the investigation, events or circumstances may occur to resolve the matter. This could result from a department satisfactorily resolving the issue after the letter of complaint was submitted to the Ombudsman.

No Authority to Investigate – the matter may involve a court action, deal with legislation, or concern a client who is not personally affected by the actions of government.

Declined on Discretionary Grounds - complaints declined on discretionary grounds by the Ombudsman include: matters known to the client for more than 12 months; trivial complaints; frivolous or vexatious complaints; complaints not made in good faith; or the client does not have a sufficient personal interest in the subject matter of the complaint.

Further Inquiries – on occasion, a client does not provide sufficient information to evaluate whether or not the matter is within the Ombudsman's jurisdiction. In these instances, an investigator must conduct additional inquiries to determine the status of the complaint. This may include specific information about the nature of the complaint, the body being complained about or available appeals. Based on the findings of the investigator, the Ombudsman is able to establish the appropriate action to pursue.

Table 5: *Action Taken On Jurisdictional Files Closed*

April 1, 2001 to March 31, 2002

Files Carried Over From Previous Years			**195**
Files Opened During 2001-2002			**459**
			654
Total Investigated		301	
	Supported	31	
	Partially Supported	70	
	Unsupported	167	
	Discontinued	33	
Total Not Investigated		204	
	Information Requests	6	
	Referred to Other Remedy or Appeal	146	
	Otherwise Resolved (without completing a full investigation)	4	
	No Authority to Investigate	24	
	Declined on Discretionary Grounds	24	
Files Closed as of March 31, 2002			**505**
Files Carried Forward to April 1, 2002			**149**
			654

Table 6: *Operational Statistics by Departments, Boards and Agencies*

April 1, 2001 to March 31, 2002

Investigated

Departments	FILES CARRIED FORWARD FROM PREVIOUS YEARS	ORAL COMPLAINTS	NEW FILES OPENED	TOTAL INVESTIGATED	SUPPORTED	PARTIALLY SUPPORTED	UNSUPPORTED	DISCONTINUED
ABORIGINAL AFFAIRS & NORTHERN DEVELOPMENT		2						
AGRICULTURE, FOOD & RURAL DEVELOPMENT	1	4		1			1	
CHILDREN'S SERVICES	18	202	42	20		6	12	2
COMMUNITY DEVELOPMENT	4	7	6	3		1	1	1
ENERGY		5	1					
ENVIRONMENT	4	14	6	4			4	
FINANCE		1	3					
GAMING		1						
GOVERNMENT SERVICES	2	16	4	3		1	2	
HEALTH AND WELLNESS	4	48	13	7	1	4	2	
HUMAN RESOURCES & EMPLOYMENT	38	423	75	72	13	17	35	7
INFRASTRUCTURE	1	6	1	2			1	
JUSTICE & ATTORNEY GENERAL	2	191	11	2		1		1
Maintenance Enforcement Program	11	11	29	14	3	5	5	
LEARNING	12	51	9	15	2	5	6	2
MUNICIPAL AFFAIRS	1	4	3	1			1	
REVENUE		2	2					
SENIORS	1	7	4	2		1	1	
SOLICITOR GENERAL	21	455	86	50	3	11	29	7
SUSTAINABLE RESOURCE DEVELOPMENT	5	15	5	7	1		5	
TRANSPORTATION	5	52	17	12		5	6	1
TOTAL: DEPARTMENTS	**130**	**1517**	**317**	**215**	**29**	**57**	**111**	**26**
Boards & Agencies								
ACCOUNTING PROFESSIONS		1						
AGRICULTURE FINANCIAL SERVICES CORPORATION	3	6	1	3		1	2	
ALBERTA ALCOHOL & DRUG ABUSE COMMISSION		2	2	1			1	
ALBERTA ENERGY & UTILITIES BOARD		7	3	1				1
ALBERTA GAMING & LIQUOR COMMISSION			1					
ALBERTA HUMAN RIGHTS & CITIZENSHIP COMMISSION	3	19	9	5	1		4	
ALBERTA OPPORTUNITY COMPANY		2	1					
ALBERTA PENSIONS ADMINISTRATION	3	6	3	4		1	3	
ALBERTA SECURITIES COMMISSION		2						
ALBERTA TEACHER'S RETIREMENT FUND BOARD			1					
ATB FINANCIAL (AB TREASURY BRANCHES)		16	3	1				1
CRIMINAL INJURIES APPEAL BOARD		1	3	1				1
ENVIRONMENTAL APPEAL BOARD			1					
HEALTH FACILITIES REVIEW COMMITTEE	3			1		1		
LABOUR RELATIONS BOARD	2	1						
PERSONNEL ADMINISTRATION OFFICE	2			2			1	1
PERSONS WITH DEVELOPMENTAL DISABILITIES BOARD	1	4	2					
SOCIAL CARE FACILITIES REVIEW COMMITTEE	1			1			1	
SURFACE RIGHTS BOARD/LAND COMPENSATION BOARD		1						
WORKER'S COMPENSATION BOARD	47	352	112	66	7	10	44	5
TOTAL: BOARDS & AGENCIES	**65**	**420**	**142**	**86**	**8**	**13**	**56**	**9**
TOTAL	**195**	**1937**	**459**	**301**	**31**	**70**	**167**	**33**

OFFICE OF THE OMBUDSMAN

TOTAL NOT INVESTIGATED	INFORMATION REQUESTS	REFERRED TO APPROPRIATE AUTHORITY OR APPEAL	OTHERWISE RESOLVED	NO AUTHORITY TO INVESTIGATE	DECLINED ON DISCRETIONARY GROUNDS	FILES CLOSED	CARRIED FORWARD	Not Investigated	Departments
									ABORIGINAL AFFAIRS & NORTHERN DEVELOPMENT
						1			AGRICULTURE, FOOD & RURAL DEVELOPMENT
27	1	18	2	4	2	47	13		CHILDREN'S SERVICES
1		1				4	6		COMMUNITY DEVELOPMENT
1	1					1			ENERGY
4		2		2		8	2		ENVIRONMENT
3		2		1		3			FINANCE
									GAMING
2		2				5	1		GOVERNMENT SERVICES
6		6				13	4		HEALTH AND WELLNESS
21		14		2	5	93	20		HUMAN RESOURCES & EMPLOYMENT
						2			INFRASTRUCTURE
7		2		4	1	9	4		JUSTICE & ATTORNEY GENERAL
21		19	1	1		35	5		Maintenance Enforcement Program
2		1			1	17	4		LEARNING
3		2		1		4			MUNICIPAL AFFAIRS
2		2				2			REVENUE
2		1		1		4	1		SENIORS
27		17		4	6	77	30		SOLICITOR GENERAL
1		1				8	2		SUSTAINABLE RESOURCE DEVELOPMENT
6		5			1	18	4		TRANSPORTATION
138	**2**	**95**	**3**	**20**	**16**	**351**	**96**		**TOTAL: DEPARTMENTS**
									Boards & Agencies
									ACCOUNTING PROFESSIONS
1				1		4			AGRICULTURE FINANCIAL SERVICES CORPORATION
1		1				2			ALBERTA ALCOHOL & DRUG ABUSE COMMISSION
1		1				2	1		ALBERTA ENERGY & UTILITIES BOARD
							1		ALBERTA GAMING & LIQUOR COMMISSION
6		5		1		11	1		ALBERTA HUMAN RIGHTS & CITIZENSHIP COMMISSION
1	1					1			ALBERTA OPPORTUNITY COMPANY
1			1			5	1		ALBERTA PENSIONS ADMINISTRATION
									ALBERTA SECURITIES COMMISSION
							1		ALBERTA TEACHER'S RETIREMENT FUND BOARD
2		1			1	3			ATB FINANCIAL (AB TREASURY BRANCHES)
						1	2		CRIMINAL INJURIES APPEAL BOARD
1					1	1			ENVIRONMENTAL APPEAL BOARD
						1	2		HEALTH FACILITIES REVIEW COMMITTEE
							2		LABOUR RELATIONS BOARD
						2			PERSONNEL ADMINISTRATION OFFICE
1		1				1	2		PERSONS WITH DEVELOPMENTAL DISABILITIES BOARD
						1			SOCIAL CARE FACILITIES REVIEW COMMITTEE
									SURFACE RIGHTS BOARD/LAND COMPENSATION BOARD
53	3	42		2	6	119	40		WORKER'S COMPENSATION BOARD
68	**4**	**51**	**1**	**4**	**8**	**154**	**53**		**TOTAL: BOARDS & AGENCIES**
204	**6**	**146**	**4**	**24**	**24**	**505**	**149**		**TOTAL**

Table 6: *Operational Statistics by Departments, Boards and Agencies*

April 1, 2001 to March 31, 2002

Investigated

Departments	FILES CARRIED FORWARD FROM PREVIOUS YEARS	ORAL COMPLAINTS	NEW FILES OPENED	TOTAL INVESTIGATED	SUPPORTED	PARTIALLY SUPPORTED	UNSUPPORTED	DISCONTINUED
ABORIGINAL AFFAIRS & NORTHERN DEVELOPMENT		2						
AGRICULTURE, FOOD & RURAL DEVELOPMENT	1	4		1			1	
CHILDREN'S SERVICES	18	202	42	20		6	12	2
COMMUNITY DEVELOPMENT	4	7	6	3		1	1	1
ENERGY		5	1					
ENVIRONMENT	4	14	6	4			4	
FINANCE		1	3					
GAMING		1						
GOVERNMENT SERVICES	2	16	4	3		1	2	
HEALTH AND WELLNESS	4	48	13	7	1	4	2	
HUMAN RESOURCES & EMPLOYMENT	38	423	75	72	13	17	35	7
INFRASTRUCTURE	1	6	1	2			1	1
JUSTICE & ATTORNEY GENERAL	2	191	11	2		1		1
Maintenance Enforcement Program	11	11	29	14	3	5	5	1
LEARNING	12	51	9	15	2	5	6	2
MUNICIPAL AFFAIRS	1	4	3	1			1	
REVENUE		2	2					
SENIORS	1	7	4	2		1	1	
SOLICITOR GENERAL	21	455	86	50	3	11	29	7
SUSTAINABLE RESOURCE DEVELOPMENT	5	15	5	7	1		5	1
TRANSPORTATION	5	52	17	12		5	6	1
TOTAL: DEPARTMENTS	**130**	**1517**	**317**	**215**	**23**	**57**	**111**	**24**
Boards & Agencies								
ACCOUNTING PROFESSIONS		1						
AGRICULTURE FINANCIAL SERVICES CORPORATION	3	6	1	3		1	2	
ALBERTA ALCOHOL & DRUG ABUSE COMMISSION		2	2	1			1	
ALBERTA ENERGY & UTILITIES BOARD		2	3	1				1
ALBERTA GAMING & LIQUOR COMMISSION			1					
ALBERTA HUMAN RIGHTS & CITIZENSHIP COMMISSION	3	19	6	5	1		4	
ALBERTA OPPORTUNITY COMPANY		2	1					
ALBERTA PENSIONS ADMINISTRATION	3	6	3	4		1	3	
ALBERTA SECURITIES COMMISSION		2						
ALBERTA TEACHER'S RETIREMENT FUND BOARD			1					
ATB FINANCIAL (AB TREASURY BRANCHES)		16	3	1				1
CRIMINAL INJURIES APPEAL BOARD		1	4	1				1
ENVIRONMENTAL APPEAL BOARD			1					
HEALTH FACILITIES REVIEW COMMITTEE	3			1		1		
LABOUR RELATIONS BOARD	2	1						
PERSONNEL ADMINISTRATION OFFICE	2			2			1	1
PERSONS WITH DEVELOPMENTAL DISABILITIES BOARD	1	4	2					
SOCIAL CARE FACILITIES REVIEW COMMITTEE	2			1			1	
SURFACE RIGHTS BOARD/LAND COMPENSATION BOARD		1						
WORKERS COMPENSATION BOARD	47	352	113	66	7	10	44	5
TOTAL: BOARDS & AGENCIES	**65**	**420**	**142**	**86**	**8**	**13**	**56**	**9**
TOTAL	**195**	**1937**	**459**	**301**	**31**	**70**	**167**	**33**

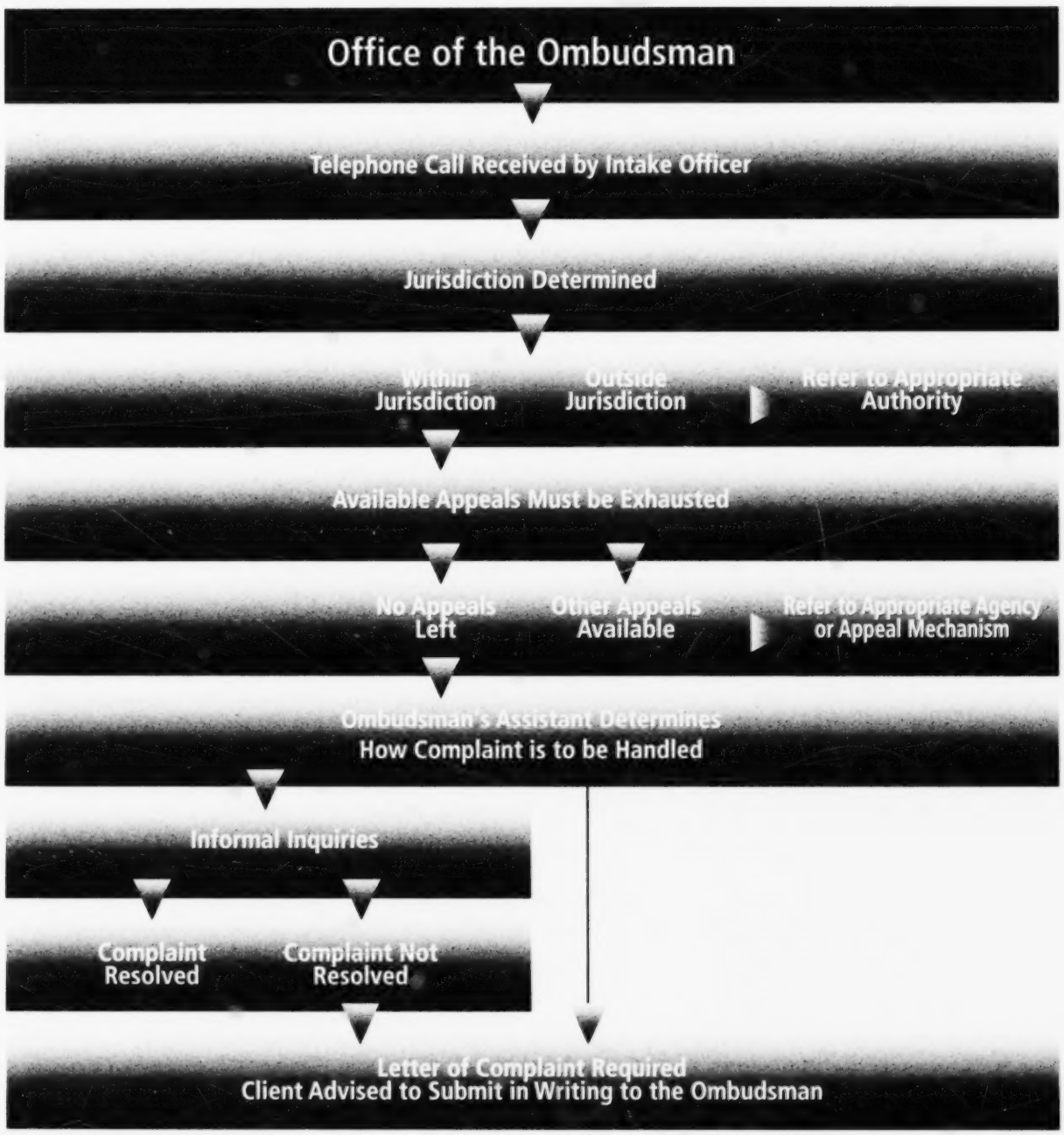
Not Investigated

TOTAL NOT INVESTIGATED	INFORMATION REQUESTS	REFERRED TO APPROPRIATE AUTHORITY OR APPEAL	OTHERWISE RESOLVED	NO AUTHORITY TO INVESTIGATE	DECLINED ON DISCRETIONARY GROUNDS	FILES CLOSED	CARRIED FORWARD	Departments
								ABORIGINAL AFFAIRS & NORTHERN DEVELOPMENT
						11		AGRICULTURE, FOOD & RURAL DEVELOPMENT
27	1	18	2	4	2	47	13	CHILDREN'S SERVICES
1		1				4	6	COMMUNITY DEVELOPMENT
1	1					1		ENERGY
4		2		2		6	2	ENVIRONMENT
3		2		1		3		FINANCE
								GAMING
2		2				5	1	GOVERNMENT SERVICES
6		6				13	4	HEALTH AND WELLNESS
21		14		2	5	93	20	HUMAN RESOURCES & EMPLOYMENT
						2		INFRASTRUCTURE
7		2		4	1	9	4	JUSTICE & ATTORNEY GENERAL
21		19	1	1		35	5	Maintenance Enforcement Program
2		1			1	17	4	LEARNING
3		2		1		4		MUNICIPAL AFFAIRS
2		2				2		REVENUE
2		1		1		4	1	SENIORS
27		17		4	6	77	30	SOLICITOR GENERAL
1		1				6	2	SUSTAINABLE RESOURCE DEVELOPMENT
6		5			1	18	4	TRANSPORTATION
136	**2**	**95**	**3**	**20**	**16**	**351**	**96**	**TOTAL: DEPARTMENTS**
								Boards & Agencies
								ACCOUNTING PROFESSIONS
1				1		4		AGRICULTURE FINANCIAL SERVICES CORPORATION
1		1				2		ALBERTA ALCOHOL & DRUG ABUSE COMMISSION
1		1				2	1	ALBERTA ENERGY & UTILITIES BOARD
							1	ALBERTA GAMING & LIQUOR COMMISSION
6		5		1		11	1	ALBERTA HUMAN RIGHTS & CITIZENSHIP COMMISSION
1	1					1		ALBERTA OPPORTUNITY COMPANY
1			1			5	1	ALBERTA PENSIONS ADMINISTRATION
								ALBERTA SECURITIES COMMISSION
							1	ALBERTA TEACHER'S RETIREMENT FUND BOARD
2		1			1	3		ATB FINANCIAL (AB TREASURY BRANCHES)
						1	2	CRIMINAL INJURIES APPEAL BOARD
1					1	1		ENVIRONMENTAL APPEAL BOARD
						1	2	HEALTH FACILITIES REVIEW COMMITTEE
							2	LABOUR RELATIONS BOARD
						2		PERSONNEL ADMINISTRATION OFFICE
1		1				1	2	PERSONS WITH DEVELOPMENTAL DISABILITIES BOARD
						1		SOCIAL CARE FACILITIES REVIEW COMMITTEE
								SURFACE RIGHTS BOARD/LAND COMPENSATION BOARD
53	3	42		2	6	119	41	WORKERS' COMPENSATION BOARD
68	**4**	**51**	**1**	**4**	**8**	**154**	**53**	**TOTAL: BOARDS & AGENCIES**
204	**6**	**146**	**4**	**24**	**24**	**505**	**149**	**TOTAL**

The flow charts illustrate the typical manner in which oral and written complaints are handled by the Office of the Ombudsman.

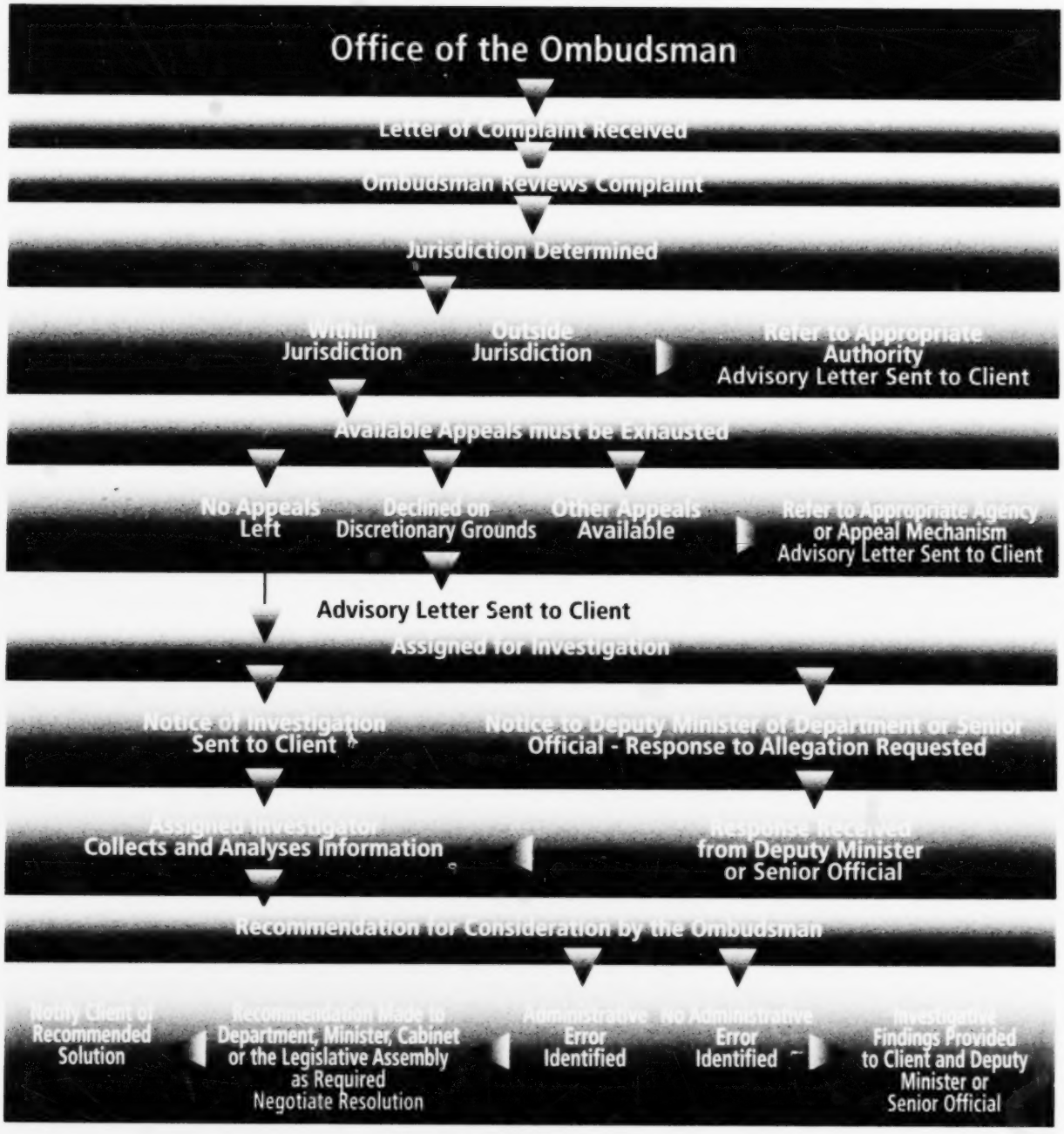
Exceptions may occur at the discretion and direction of the Ombudsman.

Processing Oral Complaints


Office of the Ombudsman
Telephone Call Received by Intake Officer
Jurisdiction Determined
Within Jurisdiction
Outside Jurisdiction
Refer to Appropriate Authority
Available Appeals Must be Exhausted
No Appeals Left
Other Appeals Available
Refer to Appropriate Agency or Appeal Mechanism
Ombudsman's Assistant Determines How Complaint is to be Handled
Informal Inquiries
Complaint Resolved
Complaint Not Resolved
Letter of Complaint Required
Client Advised to Submit in Writing to the Ombudsman

OFFICE OF THE OMBUDSMAN
INVESTIGATIVE PROCEDURES

Processing Written Complaints


Office of the Ombudsman
Letter of Complaint Received
Ombudsman Reviews Complaint
Jurisdiction Determined
Within Jurisdiction
Outside Jurisdiction
Refer to Appropriate Authority
Advisory Letter Sent to Client
Available Appeals must be Exhausted
No Appeals Left
Declined on Discretionary Grounds
Other Appeals Available
Refer to Appropriate Agency or Appeal Mechanism
Advisory Letter Sent to Client
Advisory Letter Sent to Client
Assigned for Investigation
Notice of Investigation Sent to Client
Notice to Deputy Minister of Department or Senior Official - Response to Allegation Requested
Assigned Investigator Collects and Analyses Information
Response Received from Deputy Minister or Senior Official
Recommendation for Consideration by the Ombudsman
Notify Client of Recommended Solution
Recommendation Made to Department, Minister, Cabinet or the Legislative Assembly as Required Negotiate Resolution
Administrative Error Identified
No Administrative Error Identified
Investigative Findings Provided to Client and Deputy Minister or Senior Official

35TH ANNUAL REPORT

INVESTIGATIVE SUMMARIES

Quote from client: "I am sure that you can understand both the frustration of having to spend (quite literally) years trying to resolve an outstanding issue regarding my Maintenance Enforcement Program account, as well as the gratitude of having your office finally help me bring closure to this matter."

Licence applications

A client complained of delay in receiving an appeal hearing from the Ministry of Sustainable Resource Development, Fisheries and Wildlife, in relation to a specialized hunting permit. The client also felt the appeal process was unfair.

The investigation revealed the following: the client waited several months for the appeal to be heard; the Ministry failed to respond to inquiries regarding the status of the appeal; and, there was evidence of administrative error in the processing of the appeal.

To remedy these errors, several recommendations were made to the Ministry to ensure a fair and reasonable process. The Ministry accepted the recommendations and revised the procedures for reviewing licence applications and appeals to make them more timely. Staff and applicants will also be fully informed of the process. Applicants will be offered the opportunity to appear in person to represent themselves and will be provided with detailed explanations of decisions.

As well, the client was offered a second appeal on a priority basis along with an apology for the administrative errors and delays incurred.

Separation payment for restructuring

A provincial government employee complained of being unfairly denied a Separation Payment for Restructuring (SPR) as the application was made after a reasonable time limit.

The Ombudsman's investigation determined the Ministry involved failed to communicate the deadline for SPR applications to front-line supervisors, managers and employees. Management staff unknowingly provided misinformation to the employee and urged application submission after the deadline. This gave the employee a false sense of security about whether to continue employment after the Ministry restructured its employment positions.

It was also established the employee was treated unfairly by the Ministry with regard to a grievance filed after being denied the SPR. The same person who initially denied the SPR application was also responsible to decide the merits of the Level I grievance.

The Ombudsman supported the complaint and the administrative errors were identified to the Ministry. The Ministry accepted the Ombudsman's recommendations and the employee was given a SPR.

Maintenance overpayment

A debtor complained the Maintenance Enforcement Program (MEP) failed to acknowledge payments made to the creditor prior to the date MEP took over enforcement of a file.

The Ombudsman's investigation revealed the debtor had informed MEP of these payments and had sent copies of bank statements showing the money deposited directly into the creditor's account. These payments were not disclosed to MEP by the creditor, thus placing the debtor in severe arrears.

As a result of the Ombudsman's investigation, MEP accepted the proof of payments by the debtor, the account was credited and an overpayment was acknowledged.

Quote from the client: "I am sure that you can understand both the frustration of having to spend (quite literally) years trying to resolve an outstanding issue regarding my MEP account, as well as the gratitude of having your office finally help me bring closure to this matter. Again, thank you for your help and for the peace of mind at having this issue behind me."

Terminated services

An injured worker complained the Workers' Compensation Board, Appeals Advisory Service, acted in an administratively unfair manner by terminating service.

The evidence generated by the Ombudsman's investigation determined the services of the Office of the Appeals Advisor are not provided as a right to injured workers. The provision of services is, therefore, discretional.

In this case, the Ombudsman found that a reasonable decision was made to terminate services after the injured worker continuously complained about the Appeals Advisor's competency and the services received. The complaint could not be supported as the termination of those services was conducted in an administratively fair manner.

Drug testing

An inmate complained an Alberta Correctional Centre denied a request to have a second urine sample tested for drugs. A concern was also raised that the sample container was not sealed or signed in the presence of the inmate and could have been mixed up with another inmate's sample.

The Ombudsman's investigation clearly identified administrative error as policy concerning drug testing was not followed. There were no reasonable or probable grounds to request a urinalysis test from the inmate.

The complaint was supported and the Centre removed all references to the institutional charge from the inmate's file. The Centre also agreed with the Ombudsman's recommendations to have inmates and correctional officers sign the appropriate space on the sealed sample container to confirm the container was sealed in the presence of the inmate.

Wheelchair tires

A client complained the Alberta Aids to Daily Living (AADL) Program denied funding to allow the client's son to revert to pneumatic wheelchair tires after experiencing difficulties with urethane tires. Upon notification from the Ombudsman that the matter would be investigated, AADL reviewed the situation and approved the tire change.

Although the tire change had already been approved, the Ombudsman completed his investigation and recommended changes to the process. As a result, AADL agreed to make

changes to its Terms of Reference for the Quality and Frequency Review Committee (QFRC) to make the wording clearer. One of the changes dealt with the requirement to inform applicants of their right to appeal QFRC decisions to the Director of AADL. The other dealt with providing written reasons to clients at the time of the decision. The Director also agreed to take into consideration the Ombudsman's suggestions on how the Terms of Reference should be written for the Director when the Director hears appeals.

Earnings loss supplement

An injured worker complained the Workers' Compensation Board (WCB) unfairly denied reimbursement of Canada Pension Plan (CPP) benefits deducted from an Earnings Loss Supplement (ELS).

Prior to 1996, WCB policy stated that CPP benefits would be deducted dollar for dollar from ELS payments to injured workers regardless of whether they were receiving CPP benefits for disabilities that were not related to their WCB claims.

A review of this policy was conducted and in September 1996, the WCB changed its policy so CPP benefits paid for a condition not related to the WCB claim would not be deducted from the ELS.

The Ombudsman's investigation revealed the policy was not applied correctly in this case. As a result, the WCB undertook a review of relevant claims to ensure the policy had been applied accurately and, where necessary, appropriate adjustments to injured workers' benefits were made.

Unfair maintenance payment

A client complained the Maintenance Enforcement Program (MEP) improperly enforced maintenance payments for a child given up for adoption.

The Ombudsman supported the complaint as the investigation determined improper maintenance was collected. MEP made an adjustment and reimbursed the client for the overpaid amount.

The investigation also revealed MEP had requested the client supply documentation to which the client did not have access confirming the adoption had taken place. A letter of apology was sent to the client for this inconvenience.

A second file was opened by the Ombudsman to address administrative errors discovered during the investigation regarding MEP and its relationship with other provincial government departments. The Ombudsman made recommendations which were accepted and rectified by MEP and the other government departments involved.

New appeal panel hearing

The Ombudsman investigated a complaint the Ministry of Human Resources and Employment, Appeals Secretariat, unfairly denied Assured Income for the Severely Handicapped (AISH) benefits.

The client believed the Appeal Panel was prejudiced because the client looked and spoke well. The client claimed to be permanently disabled and felt appearance was irrelevant.

Legislation is specific with regard to the criteria for AISH entitlement. The panel deviated from this by including comments in its written decision about the client's historic substance abuse and demeanor. There was no explanation given of how these were relevant to the appeal issues.

The Ombudsman concluded the complaint should be supported, as the panel acted in an administratively unfair manner. The Appeals Secretariat remedied this error by arranging for a new hearing by a different panel. The client's appeal was then successful. This action resolved the Ombudsman's concerns and the file was closed.

Caretaker permit

A client complained the Ministry of Transportation unfairly denied an application for a Caretaker Permit for Crown land adjacent to the client's property.

The Ombudsman was unable to support the complaint, as evidence determined the Crown land in question had been properly leased to a third party. Therefore, the decision to deny the client a Caretaker Permit was fair and reasonable.

Selective evidence

The Ombudsman received a complaint about the unfair handling of an investigation conducted by the Alberta Human Rights and Citizenship Commission (HRC). The client felt there was selective use of evidence, a tainted investigation process and an unfair decision to discontinue the complaint.

The Ombudsman concluded the investigation itself was reasonable and fairly conducted. A considerable number of witnesses were interviewed and each were provided with a summary of their evidence and an opportunity to add to, or correct it. There was no evidence of bias by the investigator and no indication of the investigation being tainted. The HRC had supported two of the client's four complaints.

The Ombudsman did identify administrative error because the HRC restricted its investigation to a six-month period immediately predating the filing of the complaint. Legislation is specific in that this period should have been twelve months. The HRC did not inform the client of this fact thus leaving the client with a false expectation as to the scope of the investigation. The client was not informed there were any restrictions on the investigation.

As a result of this error, the HRC conducted a detailed review of the file and determined this would not have effected the eventual decision. The Commission accepted it had erred in capping the investigation with a six-month limit and that investigation restrictions should always be explained to a client at the beginning of an investigation.

Out of country medical expenses

The client wrote the Ombudsman to complain Alberta Health and Wellness, Alberta Health Care Program, had unfairly denied emergency financial assistance for medical costs incurred following a heart attack in the United States.

The Ombudsman supported the complaint as the investigation identified a number of procedural errors in the

decision-making process. This prompted the following recommendations to the Ministry which have been implemented to improve the process:

- The Ministry will ensure the Emergency Financial Assistance Program (EFAP) application review and decision-making process is administratively fair and conducted in accordance with the Alberta Health Care Insurance Regulations.
- The Claims Branch Director has been delegated the authority to make decisions on behalf of the Minister in relation to EFAP applications.
- The Minister established the Emergency Financial Assistance Program Committee to review EFAP applications and make recommendations to the Minister's delegate.
- Information brochures will be rewritten with more accurate wording in accordance with the recommendations.

As a result of this investigation, the client was encouraged to submit a new application for financial reimbursement of the medical expenses incurred.

The Ministry expressed appreciation for the Ombudsman's constructive comments and suggestions for improving the EFAP application review process.

Rules of practice

The client wrote the Ombudsman with concerns Alberta Environment engaged in a conspiracy to deny fair participation in a hearing before the Environmental Appeal Board. The client felt the Board's failure to comply with its Rules of Practice resulted in the denial of the opportunity to fully and fairly participate in that hearing.

The Ombudsman was not able to support the complaint as the evidence indicated Alberta Environment acted in an administratively fair way throughout the appeal process.

Sale of Crown land

The client wrote the Ombudsman with concerns Infrastructure did not follow an administratively fair process when it sold Crown land adjoining the client's property.

The Ombudsman's investigation determined the Ministry adhered to relevant legislation which enables it to sell surplus land. As well, all staff involved in the sale of the land were familiar with the statutory authority under which they were acting.

The Ombudsman did not support the complaint as there was no evidence of administrative unfairness by the Ministry.

Overpayment forgiven

The client complained the Ministry of Human Resources and Employment, Supports for Independence (SFI), unfairly terminated benefits and calculated an overpayment because

it considered the client to be living in an unreported common-law relationship.

The Ombudsman's investigation determined the process followed in handling the allegation was administratively unfair. Benefits were terminated without a letter of termination and the client was not given the opportunity to challenge the allegation or explain living arrangements. An overpayment was assessed for the months the client was allegedly living common-law.

The client appealed this decision to the Citizen's Appeal Panel. The Ombudsman's investigation determined the Panel's decision to uphold the Ministry's decision was also administratively unfair. The Ministry did not inform the client of what information it was presenting to the panel to confirm a common-law living arrangement. Therefore, the client was not able to produce evidence to disprove this claim. The written decision by the panel was also administratively unfair as it did not properly set out the reasons for the decision. It did not correctly note the evidence it had considered or how the evidence was weighed. As well, it did not identify the statutory authority on which the panel based its decision.

The Ombudsman supported the complaint and suggested to the Ministry that, since considerable time had passed and it was not feasible to rewrite the decision or repeat the appeal, consideration should be given by the Ministry to discontinue pursuing the overpayment.

At the time the Ombudsman's investigation into this complaint was undertaken, there had been several changes made to the process used by Appeal Panels. The Ministry had already implemented the procedural changes addressed in this investigation. As remedy to the administrative unfairness against the client, the Ministry accepted the Ombudsman's suggestion and the overpayment was forgiven.

Insufficient information

A client wrote the Ombudsman to complain about an inadequate investigation into a complaint made to the Sheriff's Office regarding a Civil Enforcement Agency. The client also felt the response to the complaint was insufficient.

The Ombudsman's investigation determined that, after a review, the Sheriff informed the client an investigation was not warranted. No reasons for this decision were given.

The Ombudsman recommended the Sheriff's Office should have explained the purpose of a review when that option is being exercised instead of an investigation. It should also have explained the rationale for not investigating the complaint and given the client the chance for rebuttal. As well, the Sheriff's Office should have had established written criteria upon which to base the exercise of discretion when deciding whether a review or an investigation is appropriate. The Ombudsman also recommended the Sheriff's Manual should include direction regarding a course of action should this particular situation arise again.

As a result, the Sheriff's Office has expanded the Complaints Policy/Directive to address these concerns.

Ministerial Review Panel appointments

The Ombudsman received a complaint the Ministry of Learning responded inadequately to a conflict of interest concern regarding a Ministerial Review Committee member.

The Ombudsman partially supported the complaint as there was reasonable doubt concerning conflict of interest policy and guidelines relating to appointments to Ministerial Review Panels.

As a result of the findings of the Ombudsman's investigation, the Ministry agreed to review its policy and guidelines to address matters related to the administrative fairness of appointments to Ministerial Review Panels. This included the revision of documents by the Ministry to avoid bias of reviewers, changes to contracts for external staff hired as reviewers, and changes to policy on reviews by the Minister.

Monitoring harvest limits

A commercial fisherman complained of being unfairly harassed by employees of the Ministry of Sustainable Resource Development, Fisheries and Wildlife.

The Ombudsman's investigation determined Ministry staff were following policy and procedural guidelines when examining the catch from net fishing as required to monitor harvest limits. As there was no evidence of harassment, the Ombudsman did not support the complaint.

Missing order

An inmate complained that, while in a Provincial Correctional Centre, a canteen order was not received, request forms were destroyed by Correctional Officers and difficulty was experienced in obtaining an envelope for a letter to the Ombudsman.

The investigation determined there was no evidence the inmate's canteen order was handled improperly. The centre was able to provide documentation the inmate signed for the entire order and it was deducted from the inmate's account.

The inmate was unavailable to provide specific details regarding the destruction of request forms. As such, the Ombudsman was unable to support this portion of the complaint.

However, the investigation revealed an error in policy regarding inmate correspondence to the Ombudsman. The ***Ombudsman Act*** requires correctional institutions to forward inmate mail to the Ombudsman without restriction. The Correctional Services Policy Manual stated letters to the Ombudsman are conditional on the inmate being capable of supplying the writing material and postage stamps required. As a result of the investigation, the Office of the Solicitor General amended the policy to include that the centre shall supply writing paper, envelopes and pens upon request to any inmate who wishes to correspond with the Office of the Ombudsman.

Secure environment

The Ombudsman received a complaint an inmate's safety was in jeopardy because of improper placement at a Provincial Correctional Centre.

The Ombudsman's investigation established the inmate's behavior was a constant concern with various centres. This resulted in a transfer to a centre best equipped to maintain a secure environment for this particular inmate as well as fellow inmates.

The Ombudsman did not support the complaint, as there were no administrative or procedural errors identified during the investigation.

Although the complaint was not supported, the inmate wrote a letter thanking the Ombudsman for looking into the matter and providing information regarding the necessity of the transfer.

Retroactive Canada Pension Plan disability benefits

A client complained the Ministry of Human Resources and Employment, Appeals Secretariat, unfairly upheld a decision by the Assured Income for the Severely Handicapped (AISH) Program to assess an overpayment. The overpayment was levied after the client received retroactive Canada Pension Plan disability benefits for one month.

Upon notification of the Ombudsman's investigation, AISH personnel reviewed the file and determined the client's overpayment had been improperly calculated except for a small portion. As the Appeal Panel had ruled on that amount separately, saying it should not be collected, there was, in effect, no overpayment remaining.

As a result, the Ombudsman was able to support the complaint and provide assistance to the client.

Crop insurance

The clients wrote to the Ombudsman to complain of being unfairly denied crop insurance by the Agriculture Financial Services Corporation (AFSC).

The Ombudsman was able to partially support the complaint because the clients were unaware they could appeal the decision within five days of being denied coverage. There was no written or verbal advice from AFSC informing them of their right to appeal.

The error was remedied when AFSC agreed to waive the time limitations and allow the clients to appeal the decision to deny insurance. AFSC has also changed its forms to include advice the insured has a right to appeal the decision within five business days as per the insurance contract.